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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,715	12/20/2000	Robert H. Montgomery JR.	K-1775	7766

7590

01/30/2004

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EXAMINER

SINGH, SUNIL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/742,715

Applicant(s)

MONTGOMERY

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 1/2/04
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6,8,9,13,14,22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,13,14,22 and 24 is/are allowed.
- 6) ☒ Claim(s) 6,8 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 31 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 depends from claim 30, claim 31 positively claims a "cavity bore"; however, claim 30 never positively recite a "cavity bore"; therefore it is unclear if it is a part of the claim or not.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Emmerich et al. (US 4084856).

Emmerich et al. discloses a wear sleeve comprising a forward portion, intermediate portion and a split portion, the intermediate portion and split portion having external surfaces of substantially uniform diameter (see attached marked up Figure 7).

Insofar claim 31 is understood, Emmerich et al. discloses it.

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5. Claims 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Crosby (US 3865437).

Crosby discloses a wear sleeve comprising a forward portion, intermediate portion and a split portion, the intermediate portion and split portion having external surfaces of substantially uniform diameter (see attached marked up Figure 5).

Insofar claim 31 is understood, Crosby discloses it.

6. Claims 25, 27, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Krekeler (US 3397012).

Krekeler discloses a cutter tool assembly comprising a bit holder block (see Figs. 15, 17, 18) having a cavity bore, a non-rotatable (see col. 8, 10, 13) partially split wear sleeve including a forward portion, intermediate portion and a split portion, the intermediate portion and split portion having external surfaces of substantially uniform diameter (see attached marked up Figure 18).

Insofar claim 31 is understood, Krekeler discloses it.

7. Claims 25, 27, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Beebe (US 4844550).

Bebe discloses a cutter tool assembly comprising a bit holder block (see Figs. 3, 8) having a cavity bore, a non-rotatable (see col. 3) partially split wear sleeve including a forward portion, intermediate portion and a split portion, the intermediate portion and split portion having external surfaces of substantially uniform diameter (see attached marked up Figure 4).

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Insofar claim 31 is understood, Bebe discloses it.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 8, 26, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (US 5302005) in view of Krekeler '012 or Beebe '550.

O'Neill discloses a cutter tool assembly comprising a bit holder block having a cavity bore wherein said cavity bore is a stepped bore (see Fig. 7) having a forward portion (143) with a larger diameter than a smaller diameter (149) rearward portion, a non-rotatable wear sleeve (see abstract), said sleeve is adapted to be received by the bit holder block. There is a tapered surface (145) between the larger bore (143) and the smaller bore (149). O'Neill discloses the invention substantially as claimed. However, O'Neill lacks a sleeve with a partial split wherein the intermediate portion and the split portion are uniform in diameter. Krekeler and Beebe both teach friction fit sleeves wherein the partial split and intermediate portions are uniform in diameters (see above discussion). It would have been considered obvious to one of ordinary skill in the art to modify O'Neill by substituting the sleeve as taught by either Krekeler or Beebe for the sleeve disclosed by O'Neill since such an arrangement facilitates the insertion of the sleeve within the bit block holder.

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**Allowable Subject Matter**

10. Claims 9,13,14, 22 and 24 are allowed.

***Response to Arguments***

11. Applicant's arguments with respect to claim 6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Sunil Singh



HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Patent Examiner  
Art Unit 3673

SS

1/16/04

FIG. 6

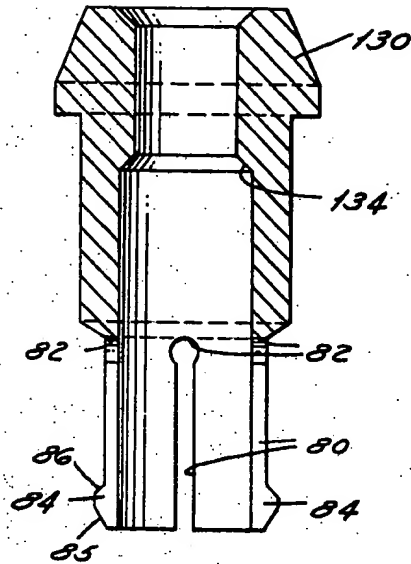


FIG. 5

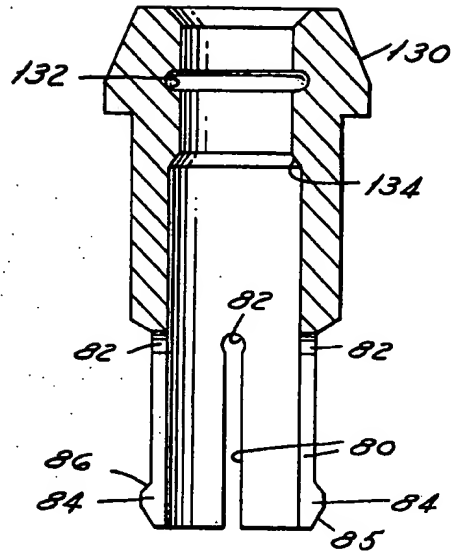


FIG. 7

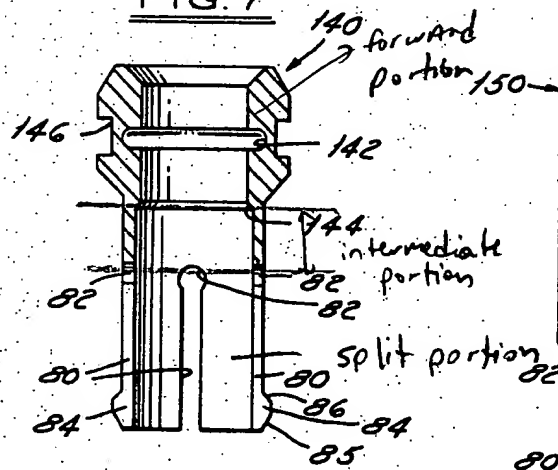
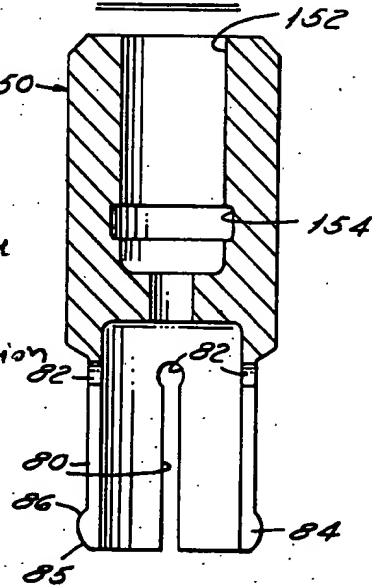


FIG. 8





PATENTED FEB 11 1975

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3,865,437

FIG. 5

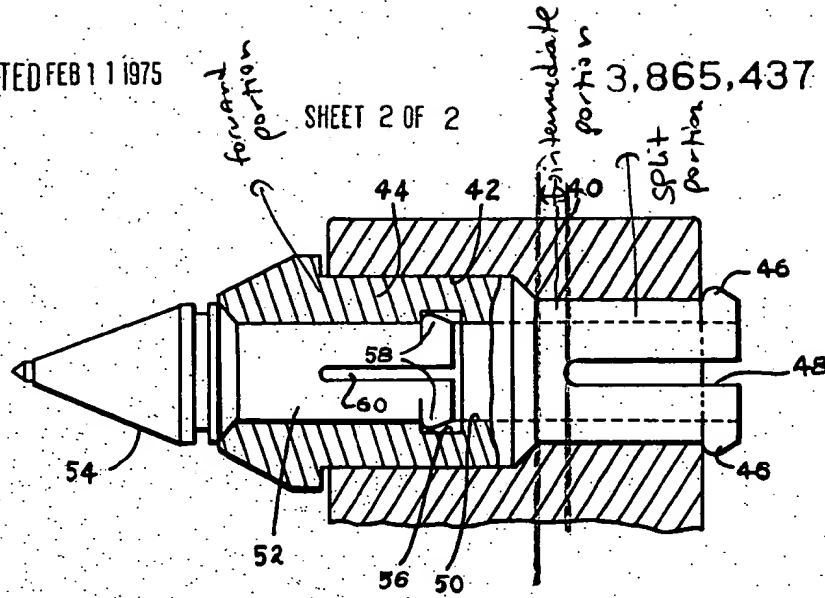


FIG. 6

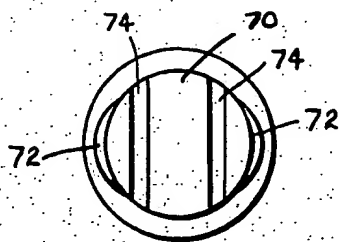
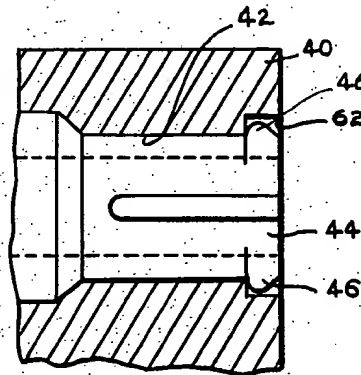


FIG. 7

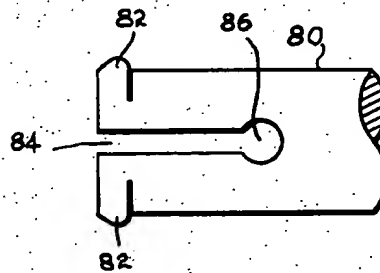


FIG. 8

Aug. 13, 1968

C. B. KREKELER

3,397,012

CUTTER BITS AND MEANS FOR MOUNTING THEM

Filed Dec. 19, 1966

5 Sheets-Sheet 2

Fig. 11

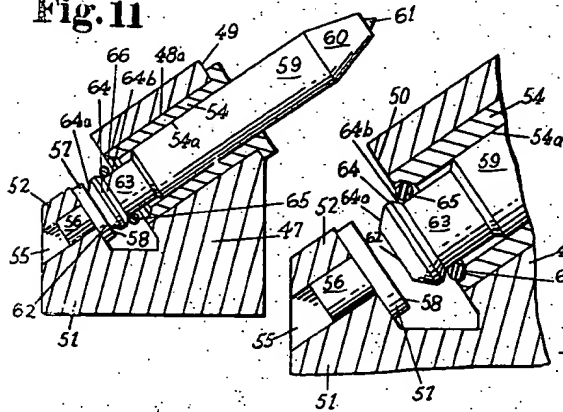


Fig. 12

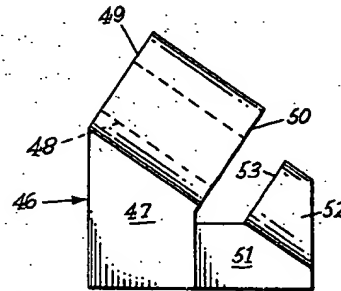


Fig. 10

